

Town of Clarence  
Zoning Board of Appeals Minutes  
Tuesday October 11, 2011  
7:00 p.m.

Chairman Arthur Henning called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

|                         |                              |
|-------------------------|------------------------------|
| Chairman Arthur Henning | Vice-Chairman Daniel Michnik |
| Ryan Mills              | David D'Amato                |
| Robert Geiger           | Patricia Burkard             |

Town Officials present:

Director of Community Development James Callahan  
Town Attorney Steven Bengart  
Councilman Bernard Kolber arrived late

Other interested parties present:

|                  |                 |
|------------------|-----------------|
| Dan Rohan        | Frank Lazarus   |
| Steve Reding     | Marian Duminuco |
| Dave Janicki     | Rich Pierpauli  |
| Robert Carrubba  | Ryan White      |
| Richard Marshall | Tim Burden      |

**Old Business**

**Appeal No. 3**

Dan Rohan  
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) a 2.21 acre variance to allow for a customary agricultural use on a property consisting of 2.79 acres.
- 2.) a 160 square foot variance to allow for the construction of an accessory structure 360 square feet in size.

Both requests apply for the operation of a horse farm and construction of an associated accessory structure at 10680 Stage Road.

Appeal No. 3 is in variance to §229-47 (B) & 229-55 (H).

**DISCUSSION:**

Dan Rohan is present. Chairman Henning reminded the Board that this request was proposed in August, the Board tabled the request on the grounds that an agricultural use requires the property be a minimum of five acres in size. Mr. Rohan explained that he collected letters of support and approval from all of his

surrounding neighbors. He also presented a lease agreement that he had drawn up with his neighbor, John Valby, which he hoped would be sufficient in providing enough property to satisfy the five acre minimum. He feels that the location of the property suits a horse farm; it is set-back and private enough that it wouldn't impact the surrounding homes. Chairman Henning asked to be shown a map detailing the location and layout of the neighbor's property that would be leased by Mr. Rohan. Julie Rohan arrived. Mr. Rohan showed the Board a color aerial map of his property and his neighbor's property, located to the west of his. The Rohans plan to utilize the south-westerly portion of the neighbor's property to satisfy the five acre requirement. Town Attorney Steve Bengart asked if the lease agreement was in perpetuity, meaning that it would continue forever. The homeowners stated that the lease agreement could be terminated at any time by either of the parties involved. Town Attorney Steve Bengart advised the Board that this arrangement should not satisfy the minimum five acre requirement because it is not permanent. Jim Callahan pointed out that the variance request is written as such that they are requesting to be granted permission for agricultural use despite the fact that they are not in possession of five acres. The Rohans pursuing the lease with their neighbor is just in an effort to conform to the traditional requirements, but the variance request does not include them having access to five acres.

Mr. Geiger inquired as to how many horses they planned to house on their property. The Rohans would like to have two horses, as their daughter participates in 4H. The Rohans plan to use a type of fencing called electro-braid. This fencing is essentially a nylon rope that has copper wire inside of it which can be electrified if necessary. They don't plan to electrify the fencing. According to the applicants, the fencing is very clean and easy to maintain. They included a photo of the fencing in their paperwork. The Rohans plan to fence in the neighbor's property that they intend to lease as well, not just their own property. All the surrounding neighbors are in favor of this request.

Mr. Mills voiced his concern with the variance request because it runs with the land. If the request is granted someone could buy the property and come in with 30 horses. The Town Attorney said reasonable conditions can be placed on the request, but there can't be temporary conditions.

Mr. Michnik voiced his concern about the applicants getting the variance approval and then immediately dropping the lease on the neighbor's property. He also pointed out that they hadn't discussed the second variance regarding the size of the building the applicant wants to put on the property. Mrs. Rohan said the second request is not necessary unless the first is granted. Mr. Michnik voiced his concern with how the property will be fenced off and how much area the horses are going to be roaming. He noted that the aerial view is deceiving and upon walking the property he saw that the trees separating their property and a neighbor's property are not dense at all. He also voiced concern over the electric fence being in the neighbor's yard. The applicants stated that the neighbor is aware of their plan to put up a fence, and would probably appreciate the fact that the back portion of his yard would be cleaned up and made into a grassy paddock. Mr. Michnik also feels like the location of the barn is close to the neighbor's property. He is concerned that the neighbor has agreed to this in the interest of being a good neighbor and is not fully aware of what he is getting himself into. Mr. Michnik inquired as to whether or not the applicants had a plan for the manure created by their two horses. Mr. Rohan responded by saying that the manure would be piled in an area of their yard where there used to be a quarry. He feels that he could pile manure for the next 30 years and it wouldn't bother anyone. Mr. Michnik pointed out that they couldn't know that for certain. He wondered if the Environmental Protection Agency has any regulations or concerns relevant to storing manure in the area that they want to store it. He was concerned about run-off from the manure storage area and the potential for smell in the area. There are a lot of concerns and research to be done and things to think about before he would feel comfortable approving these variances.

Mrs. Rohan asked what the Town's recourse is for the property on Thompson Road that is less than three (3) acres but has 20 horses on it. Mr. Michnik said that was done long ago, the Zoning Board cannot take any action on that now. Mr. Callahan explained that the lot was split illegally.

In response to Chairman Henning's question, Mrs. Rohan said she did not have legal advice when the lease was drawn up.

Town Attorney Steve Bengart is concerned with the lease being temporary; he is not comfortable with providing advice at this time until he further researches this issue. Chairman Henning asked the applicant if he would be willing to table the proposal. Mr. Rohan would like a decision tonight. Mrs. Rohan said they have horses now and there are no issues with odor, the area in question has no water in it, it is dry, the front yard has been filled in over the last 30 years. She thinks there will be no issues. There is the potential for a long term lease on Mr. Valby's property.

Mrs. Rohan wants to know what the meaning of the five (5) acre requirement is. She noted that the adjacent property owners are excited about the horses.

If the applicant comes back before the Board next month with a new lease, it should be forwarded to the Town Attorney well in advance so he can review it. Mr. Callahan clarified that the variance would be on the property; the Board cannot condition the variance on the lease. After doing some preliminary research, it was discovered that the variance could likely not be approved on the condition of a term of time.

Mrs. Rohan said although it is not their preference, they can make the 20' x 10' accessory structure work.

**ACTION:**

Motion by Arthur Henning to **deny** Appeal No. 3 as written. There is no second.

MOTION FAILED.

**ACTION:**

Motion by Daniel Michnik, seconded by Robert Geiger, to **table** Appeal No. 1 under old business, to provide the applicant time to reconsider the size of the shed and property usage. The applicant should stake out the size of the shed to make sure it is acceptable for their use. This will also allow Town Attorney Steve Bengart the opportunity to do more research regarding the legality of the Board tying this variance to the existence of a property lease.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

**Appeal No. 4**

Innovision LED Displays/Frank Lazarus  
Major Arterial

Requests the Board of Appeals approve and grant:

- 1.) a variance to allow for constant animation within an LED display board sign.
- 2.) a 43 square foot variance to allow for an LED display board 64 square feet in size.

Both requests apply to the installation of an LED display board at 4545 Transit Road (Eastern Hills Mall).

Appeal No. 4 is in variance to §181-2 (C) (5) & §181-3 (A) (2).

**DISCUSSION:**

Frank Lazarus, with Innovision LED, is present. Mr. Lazarus explained that this is not the main sign at the road; it is at the Northwest Savings Bank entrance. Throughout the mall, there is advertising currently displayed on TV screens. This project aims to move that advertising outside and direct it to foot traffic coming into the mall.

Mr. Michnik asked if the sign could be made smaller while still getting the effect. Mr. Lazarus replied by saying that they figured out the sign size based on distance between the last parking spot in the mall lot and the entrance in order to maximize the visibility. The media on the display would vary and would be changing constantly.

Mr. Mills pointed out that there is still traffic in front of the building and he is concerned with pedestrians. The changing display may distract some drivers and put pedestrians in jeopardy. The Sign Law specifically excludes animated signs, Mr. Mills asked for details as to why the Board should grant a variance to allow constantly changing animation. The Sign Law requires an LED sign to hold for 30 seconds. Mr. Lazarus explained that his client wants the same content that is being shown inside the mall to be seen on the display outside of the mall. There is a cost involved when creating commercials and advertising and his client would like to create one commercial and show that same content inside and outside the mall in order to save money. Inside the mall they can use whatever content they'd like and change it as often as they like, so they want that approved for the outside sign as well since they would be in sync. Mr. Mills said there are different conditions on the outside of the mall than on the inside. When asked if he would consider reducing the size of the sign, Mr. Lazarus stated he would have to go back to his client and ask if that was a possibility for them.

Mr. D'Amato asked why there was no representative from the mall at the meeting. Mr. Lazarus did not know. Mr. D'Amato recommended tabling the request until someone from the mall was available to explain their reasoning for wanting the sign, as well as the content being displayed on it and the size of it.

Mr. Geiger asked if the display was installed at any other malls throughout the area. Mr. Lazarus stated that this is a very new concept; there is a plan to also install a display at the Boulevard Mall. Mr. Geiger also believes that the Board should speak to a representative from the mall.

**ACTION:**

Motion by Ryan Mills, seconded by David DøAmato, to **table** Appeal No. 4 under old business, in order to have a representative from the Eastern Hills Mall attend the next meeting and answer the questions of the Board.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David DøAmato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

**New Business****Appeal No. 1**

Verizon Wireless  
Major Arterial

Requests the Board of Appeals approve and grant:

- 1.) a 43 square foot variance (3%) to allow a primary wall sign 253 square feet in size.
- 2.) a 30 square foot variance (4%) to allow a secondary wall sign 150 square feet in size.

Both requests apply to the installation of two (2) new building signs at a new commercial building at 6051 Transit Road.

Appeal No. 1 is in variance to § 181-5(F)(4).

**DISCUSSION:**

Steve Reding, representing Cellular Sales which is an authorized retailer of Verizon Wireless is present. Since the purchase of the property, the Town Code has changed. By the time Mr. Reding obtained a Change In Use permit, a building permit and a sign permit, the code had changed.

Mr. Geiger asked if this business was connected with the one at Wehrle Drive and Transit Road. Mr. Reding said no, that is a corporate location, while his business is an independent retailer. However, he will sell the same product as they have a contract with Verizon Wireless. The signs that are being proposed by Mr. Reding are very similar to the signage at the Wehrle Drive store, except that CellularSales.com Authorized Retailer must be displayed on the sign, by law.

Mr. DøAmato asked if the applicant owned or leased the building. Mr. Reding said he holds a five (5) year lease on the building with two five-year renewals. Cellular Sales is a nationwide company with over 400 stores across the country. There will not be additional signage beyond what they are currently requesting. There is an approval for a pylon sign. At the request of the Planning Board the applicant was asked to consider a 12ø monument sign. The Sign Review Board had previously approved a monument sign, but denied this application based on the size. The sign will be illuminated but on a timer which will shut the lights off around 10 or 11 oælock at night.

Mr. Mills asked for details regarding any construction with the existing building. Mr. Reding said they are planning to replace the roof and truss system. He also plans on putting new glass on the store front.

Basically they are going to take the building down to four walls and rebuild from there. Mr. Reding is unsure of who is leasing the building to Cellular Sales. Verizon requires a certain amount of signage per their agreement with Cellular Sales. If Cellular Sales doesn't meet the sign requirement, Verizon could potentially keep them from opening a business. Mr. Mills asked if the sign amount that Mr. Reding is requesting is exactly the amount the Verizon requires. Mr. Reding said this proposal is very close to the measurements that Verizon requires; however it is not exactly what Verizon is looking for. He could have less signage, but not much. Mr. Mills asked the applicant to consider slightly changing the design of the sign in order to fit within the sign code.

Mr. Michnik voiced his concern regarding the size of the proposed sign, it is 39'x 6'6", this is a huge sign. There will already be a sign at the street. The applicant is also asking for a 30'x 5' sign on the side of the building. He feels that these signs are too large.

### **ACTION:**

Motion by Daniel Michnik, seconded by Ryan Mills, to **table** Appeal No. 1, to provide the applicant the opportunity to come back before the board with a proposal to include the minimum size he is allowed by Verizon Wireless for the proposed signs on the front and side of the building.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

### **Appeal No. 2**

Marian Duminuco  
Residential Single Family

Requests the Board of Appeals approve and grant a 1' variance to allow for an 11.5' side yard setback to a principal structure for the construction of a patio enclosure at 4690 Boncrest West.

Appeal No. 2 is in variance to § 229-52 (B).

### **DISCUSSION:**

Marian Duminuco and her nephew, William Schuster, are present. Ms. Duminuco would like to construct a back patio so that she can sit out there and enjoy the summer. Ms. Duminuco had begun construction by digging the hole for the patio, but ceased construction upon learning that there were additional steps she needed to take to get the patio approved.

Mr. Geiger if the porch will be enclosed or kept opened. Ms. Duminuco would like a screened in porch. She will use the existing patio surface. The foundation walls will be put in and will be reinforced so it doesn't settle; it will be level with the existing patio.

Mr. D'Amato asked if the applicant had considered wrapping the porch around the back of the house. Ms. Duminuco said she did not consider wrapping the porch because she already has the existing patio slab off to the side. She has lived in the house for 33 years.

Neighbor notification forms are on file.

The patio is being built by her son and nephew.

Mr. Mills asked about the floor/foundation plan. He referred to the plan entitled "Covered Porch" drawn by Daryl Martin, Architect, drawing A-1. There will be a total of seven (7) columns, asphalt shingles to match the house, concrete floor and screened in. It is confirmed by the applicant that there are no future plans to completely enclose the porch other than a screen. Mr. Mills also asked if there would be any siding on the left side of the porch. Mr. Schuster said that side will be left open and eventually screened in.

There is a tree close to the porch, Ms. Duminuco plans to leave it up.

### **ACTION:**

Motion by Daniel Michnik, seconded by Robert Geiger, to **approve** Appeal No. 2, as written.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

### **Appeal No. 3**

Kennedy's Cove (David Janicki)  
Commercial

Requests the Board of Appeals approve and grant:

- 1.) a 7 square foot variance to allow for a monument ground sign board 39 square feet in size.
- 2.) a 5 square foot variance to allow an LED display board within a monument ground sign that is 15 square feet in size.

Both requests apply to the construction of a new sign at 9800 Main Street.

Appeal No. 3 is in variance to § 181-3 (B)(1) and (4).

### **DISCUSSION:**

David Janicki, owner of Kennedy's Cove, and Rich Pierpauli, from Express Sign Systems, are present. Mr. Janicki said he wants more visual impact for his business. Mr. Pierpauli explained that Mr. Janicki wants to put up a sign similar to those of Goodrich Coffee Co. and Passport Wine & Spirits. He does not intend for there to be a lot of colors or animation; he would like three (3) readable lines of text.

The location of the sign will remain the same. The distance between the ground and the bottom of the sign is 8'. The top part of the sign will be removed and the box part of the sign will be reconstructed. Mr. Michnik is concerned with the location of the sign and the potential for people walking into the base of the sign. The applicant assured Mr. Michnik that the distance will be eight feet from the bottom of the sign to the ground. Mr. Michnik asked how often Mr. Janicki plans to change the message on his sign. Mr. Janicki said it will stay up for the entire day. Mr. Michnik noted that in the past, the Board has

regulated how often messages can be changed, as well as how long they can be displayed during the day. Mr. Janicki said the sign will not flash, nor will there be movement within the text. Although the sign will be a full-color sign, Mr. Janicki plans to have the background be one color and the text another color. He does not intend to have multi-colored text displayed on the sign.

Mr. Mills asked for clarification on the overall height of the sign. Mr. Pierpauli explained that there are two ways to measure a sign. From street grade the sign is 14'6" and from the inside grade it is 12'. The applicant also clarified that the existing sign will be removed and replaced with a smaller Kennedy's Cove sign with the addition of the LED sign below it; in total the new sign will be the same size as the existing. The new sign would be 42" with a 30" LED sign beneath it. Mr. Mills asked if the applicant would be willing to make the Kennedy's Cove sign 36" in size. The applicant agreed stating that some letters might be lost, made smaller or brought closer to the edge of the sign to accommodate the 36".

Chairman Henning asked the applicant if he is agreeable to conditions such as color content of the sign if the variance is approved. Mr. Pierpauli said that it would be agreeable to him; he thinks Mr. Janicki would agree to it as well. He assured the Board that Mr. Janicki does not plan to put moving images or multiple colors on the sign.

#### **ACTION:**

Motion by Robert Geiger, seconded by Ryan Mills, to **approve** Appeal No. 3, provided the applicant reduce the top portion of the sign to 36" in height.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

#### **Appeal No. 4**

Robert Carrubba  
Planned Unit Residential Development (PURD)

Requests the Board of Appeals approve and grant a 3.5' variance to allow a 1.5' rear yard setback to a detached accessory structure (shed) at 5565 Woodbine Court.

Appeal No. 4 is in variance to § 229-55 (E) (1).

#### **DISCUSSION:**

Robert Carrubba is present. Ryan White, from Harris Beach Law Firm, and Richard Marshall, of 5560 Oak Dale Lane, are present as well. Mr. Carrubba explained that he wants more storage room because his existing shed is crowded. He built a small structure behind his existing shed. He felt this location was the most inconspicuous as opposed to building another shed. Mr. Carrubba has already started construction; he was not aware he needed a permit for the structure. Paul Gross from the Building Department contacted Mr. Carrubba to fill out the necessary paperwork for the shed permit, but the permit cannot be approved until he is granted a variance.

Mr. Geiger asked for clarification on the location of the shed. Mr. Carrubba said the new shed would be in addition to what he has now; it will meet the legal size limit. The shed will be 20 inches away from the property line.

Mr. D'Amato asked what the additional space will be used for. Mr. Carrubba said he will store ladders, lawn equipment and tables and chairs in the new space. Mr. D'Amato asked if the siding on the new addition will be the same as the existing shed, Mr. Carrubba said yes. Mr. Carrubba has lived in the house for twenty (20) years.

Neighbor notification forms are on file.

Mr. Mills voiced his concern over the aesthetics. He asked if the shed will be continuous vinyl clad all the way across, Mr. Carrubba said yes. Mr. Mills asked if there will be any edging breaks or if the vinyl siding would stretch across the whole length of the building. Mr. Carrubba explained the siding will not continue across both structures, the new structure will be pushed up against the old structure. There will be a break, but it will be barely visible. The roof will be asphalt shingle and architecturally the same as the existing roof. There will be a standard man-door on both sides of the new shed. Mr. Mills asked what the applicant would do if the variance was denied. The applicant said he would go for an appeal. Mr. Mills asked why Mr. Carrubba chose the east portion of his shed as oppose to the south portion of the shed to add on to. Mr. Carrubba said he would be too close to his neighbor on the south side there would not be enough room because his satellite dish is there. On the north side of the shed there would not be enough room between the existing shed and the neighbor's property. Mr. Mills asked about the west side of the existing shed, Mr. Carrubba informed him that there are trees in the front that would not allow him enough room.

Mr. Michnik asked what type of platform the shed will be built on. Mr. Carrubba said it is a floating platform that could be easily moved if the neighbors behind him ever needed to do repair work to their fence. The dimensions of the new shed will be 40x16. The roof pitch is lower than the existing shed. The fence behind the shed is 6 feet tall.

Mr. White, from Harris Beach Law Firm, presented a letter to the Board reviewing Mr. Carrubba's application for a variance as well as outlining the code in reference to this variance request. Mr. White pointed out that, although the location of this shed addition was chosen because it would be the least conspicuous to the surrounding area; it is very conspicuous from the backyard of Mr. Marshall's property, which is 5560 Oak Dale Lane. Mr. White referred to Exhibit B in the letter that he provided, a photo showing the Marshall's view of the shed behind their house. Mr. White said there is no reason, given the dimensions of the shed addition, that it couldn't be located in another area on the applicant's property so as to provide a lesser impact on the neighbors. Mr. White stated that the current fence is six inches (6 inches) within Mr. Marshall's property line. Between the boundary and the extended structure there are eight inches (8 inches) of space. Mr. White said the law requires five feet (5 feet) between the shed and the Marshall's property line. He said the applicant has plenty of other space on his property to build a shed that would not require a variance. Mr. White said the applicant brought this hardship upon himself by placing the original shed in its current location, then beginning construction on a project before he had the necessary approval to do so. This variance would have a negative effect on the character of the neighborhood.

Mr. Carrubba said the reason he did not expand the shed to the north is because the ladders he owns are too long. He needed to expand off the back of the existing shed in order to have the length he needs. He thinks the fence has been there approximately eighteen (18) years. The fence is approximately six feet (6 feet) high and the proposed addition is approximately seven feet (7 feet) high. Mr. Carrubba said the shed would be twenty inches (20 inches) not eight inches (8 inches) away from the boundary.

Mr. Michnik asked Mr. Marshall if he has shrubbery on his side of the fence. Mr. Marshall stated that his trees are tall and stretch above the top of the fence. Mr. Marshall did not complain about the existing shed when it went up because he thought it was up to code and Mr. Carrubba has a right to put up a shed. Mr. Marshall's current view is that of the roof of the shed over his fence. Mr. Michnik asked if it would really be that different to view the continuation of roof. Mr. Marshall said the addition is closer to his property. If Mr. Carrubba built a new shed on his property the height of it would be camouflaged by the canopy of the trees.

Mr. White said the applicant should have considered what the other options were before applying for a variance.

Chairman Henning referred to a memo from the Town of Clarence Engineering Department dated October 3, 2011 with regards to the proposed shed being located in a private drainage easement. The Engineering Department has no objections to the request subject to the following conditions: the applicant signs a Private Drainage Easement Agreement from the Engineering Department prior to any land disturbance on the site. The applicant understands. If the variance is approved, the Town Attorney or Mr. Carrubba's attorney needs to write up an agreement pertaining to the easement.

#### **ACTION:**

Motion by Ryan Mills, seconded by David D'Amato, to **deny** Appeal No. 4, based on the following conditions set forth by the NYS Town Law §267:

- The request would create an undesirable change in the character of the neighborhood as the proposed structure would be too close to the neighboring fence and will obstruct the view shed.
- The applicant has a large piece of property which provides options for other locations on his property to put a new shed up that would not require a variance,
- The requested variance is substantial. The nearby neighbor needs accessibility to the fence.
- The variance will have an adverse affect on the environment as it will cross through a drainage easement.
- The hardship was self-created.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Aye |
| Ryan Mills     | Aye | Daniel Michnik | Nay |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

#### **Appeal No. 5**

Tim Burden  
Residential Single Family

Requests the Board of Appeals approve and grant a 16' variance to allow an 11' rear yard setback to a principal structure for the construction of an enclosed patio addition at 4159 Foxwood Lane.

Appeal No. 5 is in variance to § 229-52 (C).

**DISCUSSION:**

Tim Burden is present. He explained that his property is a corner lot so there is a short back yard on one side. His house has a rear yard setback of approximately 40' to put a patio enclosure on the back he needs a variance.

Neighbor notification forms are on file.

Mr. D'Amato and Mr. Mills said the property was not staked. Mr. Burden confirmed it was not.

Mr. Michnik met with the applicant when he visited the property. He does not feel that the request is overwhelming. Mr. Burden explained the roof line and the layout of the proposed addition to Mr. Michnik when he visited the property. Mr. Michnik has no problem with this request.

**ACTION:**

Motion by Dan Michnik, seconded by Arthur Henning, to **approve** Appeal No. 5, as written.

**ON THE QUESTION:**

Mr. Mills questioned the type of siding to be used on the enclosure. The applicant stated the patio will not be enclosed, so there will be no siding. There may be siding on the top front piece that faces the neighbor, that siding will match the house. There will be a few sky lights and asphalt shingles will be used.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Robert Geiger  | Aye | David D'Amato  | Nay |
| Ryan Mills     | Aye | Daniel Michnik | Aye |
| Arthur Henning | Aye |                |     |

MOTION CARRIED.

**ACTION:**

Motion by David D'Amato, seconded by Ryan Mills, to **approve** the minutes of the meeting held on September 13, 2011, as written.

|                |         |                |         |
|----------------|---------|----------------|---------|
| Robert Geiger  | Abstain | David D'Amato  | Aye     |
| Ryan Mills     | Aye     | Daniel Michnik | Abstain |
| Arthur Henning | Aye     |                |         |

MOTION CARRIED.

Meeting adjourned at 9:04 p.m.

Carolyn Delgato  
Senior Clerk Typist